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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/796,154	03/10/2004	Nobuhiko Hayashi	57810-084	2539
7590	01/23/2006		EXAMINER	
McDermott, Will & Emery 600 13th Street, N.W. Washington, DC 20005-3096				LE, DUNG ANH
			ART UNIT	PAPER NUMBER
			2818	

DATE MAILED: 01/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/796,154	HAYASHI ET AL.	
	Examiner	Art Unit	
	DUNG A. LE	2818	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 7-28 is/are pending in the application.
- 4a) Of the above claim(s) 12-28 is/are withdrawn from consideration.
- 5) Claim(s) 7-11 is/are allowed.
- 6) Claim(s) _____ is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

DETAIL ACTION

Priority

Acknowledge is made of applicants' claim for foreign priority base on an application JP2001-56284 filed in Japan on 3/1/2001.

It is noted that Applicants have not filled a certified copy of said application as required by U.S.C 119. The certified priority document was filed in the Patent Serial Number 10/084050 on 2/28/2002.

Oath/Declaration

The oath/declaration filed on 3/10/2004 is acceptable.

Election/Restriction

Application's election without traverse of Group I (Claims 7-11) drawn to a semiconductor device is acknowledged for prosecution in the subject application . Applicants have the right to file a divisional, continuation or continuation-in-part application covering the subject matter of the non-elected claims 12- 28.

Information Disclosure Statement

This office acknowledges of the following items from the Applicant:

Information Disclosure Statement (IDS) filed on 3/10/2004 and made of record.

The references cited on the PTOL 1449 form have been considered.

This application is in condition for allowance except for the following formal matters:

- i) The specification is objected to for the following reasons:
 - a) The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed (see MPEP § 606.01).
 - b) A new abstract is required that is clearly indicative the invention to which the claims are directed. The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words.

Note that, the claims are directed to semiconductor device instead of to a method of making a semiconductor device.

The specification has been checked to the extent necessary to determine the presence of all possible minor errors. However, the applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

- ii) Cancellation of claims 12- 28.

Reasons for Indication of Allowable Subject Matter

Claims 7-11 would be allowed. The following is an examiner's statement of reason for allowance: None of the references of record teaches or suggests the claimed Nitride-based semiconductor element with a mask layer, having a recess portion on an upper surface of said mask layer, formed on projection portions of an underlayer having said projection portions on upper surface on said underlayer to partially expose said upper surface of said underlayer; a nitride-based semiconductor layer formed on said exposed part of said underlayer and said mask layer while forming a void on said recess portion of said mask layer and among other limitations as cited in independent claim 7.

If Applicants are aware of better art than that which has been cited, they are required to call such to attention of the examiner.

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

When responding to the office action, Applicants' are advised to provide the examiner with the line numbers and page numbers in the application and/or references cited to assist the examiner to locate the appropriate paragraphs.

When responding to the office action, Applicants' are advised to provide the examiner with the line numbers and page numbers in the application and/or references cited to assist the examiner to locate the appropriate paragraphs.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dung A. Le whose telephone number is (571) 272-1784. The examiner can normally be reached on Monday-Tuesday and Thursday 6:00am- 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Nelms can be reached on (571) 272-1787. The central fax phone numbers for the organization where this application or proceeding is assigned are (571)272-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DUNG A. LE
Primary Examiner
Art Unit 2818